

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
January 25, 2012**

The Bismarck Planning & Zoning Commission met on January 25, 2012, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Vice Chairman Armstrong presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Curt Juhala, Vernon Laning, Mike Schwartz, Lisa Waldoch and John Warford.

Commissioners Doug Lee, Ken Selzler and Wayne Yeager were absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner, Kimberley Gaffrey – Office Assistant III, Charlie Whitman – City Attorney and Ray Ziegler – Building Official.

Others present were Jake Axtman - 909 Basin Avenue, Brad Krogstad – 128 Soo Line Drive, C.W. Veitz – 1790 East Calgary Avenue, Jeff Johnson – 1790 East Calgary Avenue #4, David and Marlene Sautner - 1790 East Calgary Avenue #2, Bev Haman – 1770 East Calgary Avenue #1, Dan Schmatlz – 3148 Manitoba Lane, Tim Staloch – 6650 66th Street NE, Morgan Forness 1815 Shiloh Drive, John and Myrna Hauck – 6420 TJ Lane, Richard Sander – 1520 Knollwood and Dave Edquist – 4567 American Boulevard, West Bloomington, MN.

MINUTES

Vice Chairman Armstrong called for consideration of the minutes of the December 21, 2011 meeting.

MOTION: Commissioner Warford made a motion to approve the minutes of the December 21, 2011 meeting as received. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

CONSIDERATIONS –

PRELIMINARY PLAT – MEADOWLARK COMMERCIAL 6TH ADDITION

**ZONING CHANGE FROM A TO R5, R10, RM30 AND RT AND PRELIMINARY PLAT
– KILBER NORTH ADDITION**

**ZONING CHANGE FROM A & R10 TO R5 AND PRELIMINARY PLAT –
PROMONTORY POINT V**

**ZONING CHANGE FROM A TO R5 & P AND PRELIMINARY PLAT – SATTLEERS
SUNRISE 9TH ADDITION**

**ZONING CHANGE FROM A TO RR AND PRELIMINARY PLAT – ROCK CREEK 4TH
SUBDIVISION**

**LAND USE PLAN AMENDEMENT (URBAN RESIDENTIAL TO INDUSTRIAL) – PART
OF THE NE1/4 OF SECTION 7, T139N-R79W/GIBBS TOWNSHIP
ZONING CHANGE FROM RT & CG TO RT & CG – LOTS 1 & 2, BLOCK 2, 43RD
AVENUE COMMERCIAL PARK
ZONING CHANGE FROM R10 TO PUD – LOTS 3-36, BLOCK 2, SONNET HEIGHTS
SUBDIVISION FIRST REPLAT**

Vice Chairman Armstrong called for consideration of the following consent agenda items:

- A. A preliminary plat for Meadowlark Commercial 6th Addition. The property is five lots in one block on 45.64 acres and is located north of 43rd Avenue NE along the west side of North 19th Street (a replat of Lots 1-6, Block 2, Lots 1-6, Block 4 and Lots 1-4, Block 5, Meadowlark Commercial 3rd Addition in the W½ of Section 15, T139N-R80W/Hay Creek Township).
- B. A zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential, RM30-Residential and RT-Residential zoning districts and preliminary plat for Kilber North Addition. The property is 21 lots on two blocks on 12.22 acres and is located south of 43rd Avenue NE between North Washington Street and US Highway 83 (part of the NW¼ of Section 21, T139N-R80W/Hay Creek Township).
- C. A zoning change from the A-Agricultural and R10-Residential zoning districts to the R5-Residential zoning district and preliminary plat for Promontory Point V. The property is 125 lots in nine blocks on 69.03 acres and is located along the top of the plateau north of Burnt Boat Drive, between River Road and the Tyler Coulee (part of the E½ of Section 24, T139N-R81W/West Hay Creek Township and part of the W½ of Section 19, T139N-R80W/Hay Creek Township).
- D. A zoning change from the A-Agricultural zoning district to the R5-Residential and P-Public zoning districts and preliminary plat for Sattlers Sunrise 9th Addition. The property is 93 lots in five blocks on 32 acres and is located in northeast Bismarck, one-half mile east of Centennial Road and north of Century Avenue, east of the existing Sattler's developments (part of the W½ of Section 24, T139N-R80W/Hay Creek Township).
- E. A zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and preliminary plat for Rock Creek Fourth Subdivision. The property is one lot in one block on 24.8 acres and is located north of 71st Avenue NE and west of 80th Street NE at the end of Rock Creek Road (part of the SE¼ of Section 5, T139N-R79W/Gibbs Township).
- F. An amendment to the Land Use Plan for the west side of 66th Street NE approximately 1/2 mile south of 71st Avenue NE (6650 66th Street NE), to introduce the industrial land use classification in the SE¼ of the NE¼ of Section 7, T139N-R79W/Gibbs Township. The applicant has requested to amend the future land use designation for a 7.5 acre tract

(approximate) from urban residential to industrial to allow for the development of storage units.

- G. A zoning change from the RT-Residential and CG-Commercial zoning districts to the RT-Residential and CG-Commercial zoning districts for Lots 1-2, Block 2, 43rd Avenue Commercial Park Addition. The property is located along the east side of Coleman Street and the west side of Ottawa Street north of 43rd Avenue.
- H. A zoning change from the R10-Residential zoning district to the PUD-Planned Unit Development zoning district Lots 3-36, Block 2, Sonnet Heights Subdivision First Replat. The property is located in north Bismarck along the south side of Canada Avenue approximately ¼ mile west of US Highway 83 (replat of Lots 3-36, Block 2, Sonnet Heights Subdivision First Replat in the E½ of Section 16, T139N-R80W/Hay Creek Township).

Vice Chairman Armstrong asked if there were any comments on the consent agenda items.

Tim Staloch spoke regarding the Land Use Plan amendment for Section 7, T139N-R79W/Gibbs Township. He said he bought the property twenty years ago and it was purchased with the intention that it would be retirement income. He went on to say that he would like to change the land use plan so he can build storage units and believes the people living in this area would use them, adding that it is a viable solution for that property. Mr. Staloch stated that the land use plan is something that should be able to be changed.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve Consent Agenda Items A, B, C, D, E, F G and H, calling for public hearings or tentative approval on the items. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – RIDGEFILED ADDITION

Vice Chairman Armstrong called for the public hearing for the minor subdivision final plat for Ridgefield Addition. The property is located along the north side of East Calgary Avenue between US Highway 83 and North 19th Street.

Ms. Lee provided an overview of the request and listed the following findings for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.

3. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include multi-family residential to the east, manufactured home residential to the north, single family residential to the west (zoned RT) and undeveloped CG-zoned property to the south.
4. The proposed subdivision is already annexed and utilities are in place in East Calgary Avenue.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information:

1. The applicants are proposing to replat a portion of Lot 1 for the development of two-unit rowhouses (twinhomes). This project was originally proposed as a multi-building project on one large lot as a condominium project; however, they are changing the project to have individual ownership of each unit and lot. There will be a homeowners association.
2. The proposed development includes a private roadway to provide access to these units from East Calgary Avenue. The applicant has submitted a request to use a private roadway in this location and has submitted written justification for this request. As this private roadway is currently in place and in use, it seems reasonable to allow the continued use of a private roadway in this situation.

Ms. Lee said based on the above findings, staff recommends approval of minor subdivision final plat of Ridgefield Addition and granting a waiver to allow the continued use of a private roadway.

Vice Chairman Armstrong opened the public hearing for the minor subdivision final plat for Ridgefield Addition.

Jeff Johnson asked why the developer wants to bring the road so it passes through the condos where he lives because he is concerned what it will do to the roads and driveways.

Ms. Lee explained where the road will be built and indicated that until the roadway is constructed through Lot 9, there will not be a connection to the roadway that runs through the existing condos.

Brian Eiseman added that the road for this development will not connect to the roadway in the existing condo development until sometime later in the future.

There was no public comment.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the minor subdivision final plat for Ridgefield Addition, granting a waiver to allow the continued use of a private roadway. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RT-RESIDENTIAL AND FINAL PLAT – SHILOH CHRISTIAN SCHOOL THIRD ADDITION

Vice Chairman Armstrong called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the RT-Residential zoning district and the final plat for Shiloh Christian School Third Addition. The property is one lot in one block on 10 acres and is located along the north side of I-94 east of North 19th Street approximately 1/8 mile (an unplatted portion of the NE1/4 of Section 27, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by annexation.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Mr. Tomanek then listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Bismarck-Mandan Regional Future Land Use Plan, which identifies the area as general commercial.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include public sports facilities to the north and east, Shiloh Christian School to the west and I-94 to the south.
3. The proposed zoning change would not place an undue burden on public services.

4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following findings for the plat:

1. All technical requirements for approval of the final plat have been met.
2. The proposed subdivision lies outside the Fringe Area Road Master Plan area.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include sports facilities to the north and east, Shiloh Christian School to the west and I-94 to the south.
5. The proposed subdivision would not adversely affect the adjacent properties.
6. The City and other agencies would be able to provide necessary public services, facilities, and programs to serve the development allowed by the proposed subdivision at the time the property is developed.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan; other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the annexation, zoning change from the A-Agricultural zoning district to the RT-Residential zoning district and final plat for Shiloh Christian School Third Addition.

Vice Chairman Armstrong called for the public hearing for the zoning change from the A-Agricultural zoning district to the RT-Residential zoning district and final plat for Shiloh Christian School Third Addition.

No public comment was received.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve the annexation, zoning change from the A-Agricultural zoning district to the RT-Residential zoning district and final plat for Shiloh Christian School Third Addition. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO R5-RESIDENTIAL, R10-RESIDENTIAL AND RM15-RESIDENTIAL, FRINGE AREA ROAD MASTER PLAN AMENDMENT AND FINAL PLAT – BOULDER RIDGE THIRD ADDITION

Vice Chairman Armstrong called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential and RM15-Residential zoning districts, Fringe Area Road Master Plan amendment and the final plat for Boulder Ridge Third Addition. The property is 34 lots in three blocks on 20.78 acres and is located north of 43rd Avenue NE and east of North Washington Street (part of the SW¹/₄ of Section 16, T139N-R80W/Hay Creek Township).

Ms. Lee provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then listed the following findings for the zoning change:

1. The proposed zoning change would be generally consistent with the Land Use Plan, which identifies the long range use of this area as urban residential west of the north-south collector and a combination of mixed use and commercial east of the north-south collector (land use portion of US Highway 83 Corridor Transportation Study). Moving the location of the change in land use from the north-south collector east to the quarter-section line is reasonable. Such a change would be considered minor and could be done administratively.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north and west, undeveloped property

to the south, and a mix of commercial, institutional and single-family residential uses to the east.

3. The subdivision proposed for this property will be annexed prior to development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the Fringe Area Road Master Plan amendment:

1. The Fringe Area Road Master Plan was adopted by the City Commission on September 9, 2003.
2. The developer of Boulder Ridge 3rd Addition is requesting an amendment to the Fringe Area Road Master Plan for Section 16, Hay Creek Township, to realign the southern end of the north-south collector in this section. This amendment will move the south end of the north-south collector (Halifax Drive/Normandy Street) from the quarter-section line to a location approximately 500 feet to the west. This roadway segment will be in alignment with Normandy Street from the south across 43rd Avenue NE.
3. The proposed subdivision (Boulder Ridge 3rd Addition) will conform to the Fringe Area Road Master Plan as amended.

Ms. Lee then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision does not conform to the Fringe Area Road Master Plan for this area; however, an amendment is being initiated in conjunction with this plat to move the south end of the north-south collector from the quarter line approximately 500 feet to the west. The proposed subdivision will conform to the Fringe Area Road Master Plan as amended.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north and west, undeveloped property to the south, and a mix of commercial, institutional and single-family residential uses to the east.

5. The proposed subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation, zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential and RM15-Residential zoning districts, the amendment to the Fringe Area Road Master Plan for Section 16, T 139N-R80W/Hay Creek Township and final plat for Boulder Ridge Third Addition.

Vice Chairman Armstrong called for the public hearing for the zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential and RM15-Residential zoning districts, the amendment to the Fringe Area Road Master Plan and final plat for Boulder Ridge Third Addition.

There was no public comment.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve the annexation, zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential and RM15-Residential zoning districts, the amendment to the Fringe Area Road Master Plan for Section 16, T 139N-R80W/Hay Creek Township and final plat for Boulder Ridge Third Addition. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO R5-RESIDENTIAL AND FINAL PLAT – BOULDER RIDGE FOURTH ADDITION

Vice Chairman Armstrong called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and the final plat for Boulder Ridge Fourth Addition. The property is 25 lots in four blocks on 9.84 acres and is located north of 43rd Avenue NE and east of North Washington Street (parts of the NW¹/₄ and SW¹/₄ of Section 16, T139N-R80W/Hay Creek Township).

Ms. Lee provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (land use portion of US Highway 83 Corridor Transportation Study).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the south and undeveloped property to the north, east and west.
3. The subdivision proposed for this property would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision does not impact the Fringe Area Road Master Plan for this area, which identifies Halifax Drive/Normandy Street as the north-south collector and LaSalle Drive as the east-west collector for this section.

4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the south and undeveloped property to the north, east and west.
5. The proposed subdivision would be annexed prior to development; therefore, it will not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation, zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and final plat for Boulder Ridge Fourth Addition.

Vice Chairman Armstrong called for the public hearing for the zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and final plat for Boulder Ridge Fourth Addition.

There was no public comment.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Juhala made a motion to approve the annexation, zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and final plat for Boulder Ridge Fourth Addition. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL & R5-RESIDENTIAL TO R5-RESIDENTIAL & P-PUBLIC AND FINAL PLAT – EAGLE CREST FIFTH ADDITION

Vice Chairman Armstrong called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential and P-Public zoning districts and the final plat for Eagle Crest Fifth Addition. The property is 36 lots in three blocks on 16.54 acres and is located west of Valley Drive along High Creek Road between Mustang Drive and Round Top Road (part of Tract 2-A of the NW¼ of Section 20, T139N-R80W/Hay Creek Township, and a replat of Lot 1, Block 4 and Lot 5, Block 5, Eagle Crest 4th Addition).

Ms. Lee provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north and south, New Generations Park to the east and undeveloped property to the west.
3. The subdivision proposed for this property would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision does not impact the Fringe Area Road Master Plan for the area, which identifies Valley Drive as the north-south collector for this section.

4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north and south, New Generations Park to the east and undeveloped property to the west.
5. The proposed subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information:

1. The proposed plat includes a replat of Lot 1, Block 4 and Lot 5, Block 5, Eagle Crest 4th Addition, and will eliminate the Crest Loop right-of-way between those two lots. The Valero pipeline easement along the northern edge of Eagle Crest 4th makes it difficult to construct a roadway in this location.
2. With the elimination of the Crest Loop connection, the roadway from the north now includes a cul-de-sac and has been renamed Crest Circle. The applicant is requesting the use of a cul-de-sac for this development and has submitted written justification for this request. Section 14-09-05(1)(m) of the Subdivision Regulations (Design Standards) states, "The use of cul-de-sac streets shall be limited in order to promote a well-connected street network that provides for safe, direct and convenient access by vehicles, bicycles, and pedestrians. Cul-de-sac streets may be permitted in instances where there is no reasonable opportunity to provide for future connections to adjoining streets, including natural barriers such as topography or water features, man-made barriers such as railroad tracks, or to discourage through traffic between incompatible land uses. Detailed written justification for the use of cul-de-sac streets in proposed subdivision plats shall be provided as part of the plat application process." Based on these criteria, staff has no objection to the use of a cul-de-sac in this location, as the Valero pipeline easement creates a man-made barrier.
3. With the elimination of the Crest Loop connection, the maximum block length will also be exceeded along Round Top Road between Valley Drive and High Creek Road. The applicant is also requesting a waiver from the maximum block length and has submitted written justification for this request. Section 14-09-05(3)(a) of the Subdivision Regulations (Design Standards) states, "Block length should usually not exceed one thousand three hundred twenty (1,320) feet nor be less than three hundred (300) feet, measured from street center line to street center line." As the Valero pipeline easement creates a man-made barrier, it seems reasonable to allow the block length to be exceeded in this situation.

4. Section 14-09-05(3)(b) of the Subdivision Regulations (Design Standards) includes provisions for requiring a pedestrian walkway in situations where blocks are longer than 900 feet in length. Because of the grade differential between Round Top Road and the southern end of Crest Circle, a pedestrian walkway is not practical in this location.

Ms. Lee said based on the above findings, staff recommends approval of the annexation, zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential and P-Public zoning districts and final plat for Eagle Crest Fifth Addition.

Vice Chairman Armstrong called for the public hearing for the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential and P-Public zoning districts and final plat for Eagle Crest Fifth Addition.

There was no public comment.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the annexation, zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential and P-Public zoning districts and final plat for Eagle Crest Fifth Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR PART OF LOT 4, BLOCK 1, MENARD’S SECOND ADDTION (3600 STATE STREET)

Vice Chairman Armstrong called for the public hearing for a special use permit to construct and operate a filling station and car wash facility. The property is located along the west side of State Street and along the south side of Calgary Avenue (3600 State Street).

Mr. Tomanek provided an overview of the request and listed the following findings for the special use permit:

1. The proposed special uses comply with all applicable provisions of the zoning ordinance and are consistent with the general intent and purpose of this land development code.
2. The proposed special uses would not adversely affect the public health, safety and general welfare.
3. The proposed special uses would not be detrimental to the use or development of adjacent properties; the use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

4. Adequate public facilities and services are in place to serve this property.
5. The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
6. Adequate measures have been taken to minimize traffic congestion in the public streets to provide for appropriate on-site circulation of traffic.

Mr. Tomanek then listed the following additional information:

1. A filling station and a car wash are allowed as separate special uses in the CG - commercial district, provided specific conditions are met.
2. The proposed filling station meets all of the eight provisions outlined in Section 14-03-08 (4)(e) of the City Code of Ordinances.
3. The car wash facility meets all seven provisions outlined in Section 14-03-08(4)(m) City Code of Ordinances. The property does meet the required stacking spaces for a car wash as indicated in Section 14-03-10(2) City Code of Ordinances.
4. A site plan has been submitted as part of the City of Bismarck's site plan review process. The plan has not been formally approved at this time.

Mr. Tomanek said that based on the above findings, staff recommends approval of the special use permit to construct and operate a filling station and car wash facility on Lot 4, except that part that lies south of a line that is parallel with and 79.94 feet north of north line of Lot 3, Block 1, Menard's Second Addition with the following condition:

1. Development of the site generally conforms to the site plan once it has been approved.

Vice Chairman Armstrong called for the public hearing for the special use permit to construct and operate a filling station and car wash facility on Lot 4, except that part that lies south of a line that is parallel with and 79.94 feet north of north line of Lot 3, Block 1, Menard's Second Addition (3600 State Street).

No public comment was received.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to approve the request for the special use permit to construct and operate a filling station and car wash facility on Lot 4, except that part that lies south of a line that is parallel with and 79.94 feet north of the north line of Lot 3, Block 1, Menard's Second Addition (3600 State Street), with the following condition: 1) development of the site generally conforms to the site plan once it has been

approved. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Schwartz, Waldoch and Warford voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Vice Chairman Armstrong declared the Bismarck Planning & Zoning Commission adjourned at 5:33 p.m. to meet again on February 22, 2012.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Mark Armstrong
Vice Chairman